

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Robert A. Trani, #05618-196,) C/A No.: 9:07-3399-JFA-BM
)
 Petitioner,)
)
v.) **ORDER**
)
)
John Owen, Warden,)
)
)
 Respondent.)
)

This matter is before the court for review of the magistrate judge's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1)(A) and (B) and Local Rule 19.02(B)(2)(c) (D.S.C.).

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

This is a petition for writ of habeas corpus pursuant to 28 U.S.C. §2241. Respondent filed a motion for summary judgment on January 9, 2008, to which petitioner filed an opposition. The magistrate judge issued a Report and Recommendation on May 28, 2008 recommending that Respondent's motion be granted, that the petition be dismissed with prejudice as to Ground Three and dismissed without prejudice as to Grounds One, Two and Four.

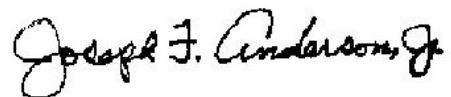
Petitioner filed an objection to the report on June 23, 2008, to which the Respondent replied by submission dated June 25, 2008. In his objection, which has been carefully considered by the court, petitioner repeats many of the same argument raised in his petition and opposition to summary judgment.

In light of the standard set out above, the court has reviewed, *de novo*, the record, the law, the Report and Recommendation of the magistrate judge, together with the petitioner's objections thereto, and finds there are no genuine issues of any material fact to be determined and that the respondent is entitled to judgment as a matter of law. The court rejects petitioner's argument that the actions of the Bureau of Prisons ("BOP") violate the Administrative Procedures Act ("APA"), 5 U.S.C. § 701 et seq. Congress specifically exempted from APA review the decisions of the BOP concerning the classification and placement of inmates, including decisions concerning placement in the RDAP program and consideration for early release after successful completion of that program. 18 U.S.C. § 3625. Further, there is no judicial review available under the APA for BOP decisions not to

file motions pursuant to 18 U.S.C. § 3582(a)(1)(A). With limited exceptions inapplicable here, this court is without authority to reduce a sentence after it has been imposed. The remainder of petitioner's objection does not require a response.

The Report and Recommendation is incorporated herein by reference and adopted as the order of this court. The petitioner's objections are overruled, and the respondent's claim for summary judgment is granted.

IT IS SO ORDERED.



September 22, 2008
Columbia, South Carolina

s/ Joseph F. Anderson, Jr.
United States District Judge